

Postal Regulatory Commission

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(d) Unused rate adjustment authority lapses 5 years after the date of filing of the notice of rate adjustment leading to its computation.

§ 3010.27 Application of unused rate adjustment authority.

When the percentage change in rates for a class is greater than the applicable annual limitation, then the difference between the percentage change in rates for the class and the price cap shall be subtracted from the existing unused rate authority for the class, using a first-in, first-out (FIFO) method, beginning 5 years before the instant notice.

§ 3010.28 Maximum size of unused rate adjustment authority rate adjustments.

Unused rate adjustment authority exercised in notices of rate adjustments for any class in any 12-month period may not exceed the applicable limitations described in §§ 3010.21 or 3010.22 plus the lesser of:

- (a) 2 percent; or
- (b) The sum of any unused rate adjustment authority for that class.

§ 3010.29 Transition rule.

If the Postal Service initial exercise of its authority to file a Type 1–A notice of rate adjustment is preceded by a transitional rate case filing under 39 U.S.C. 3622(f):

- (a) The annual limitation as calculated in § 3010.21 is applicable if the notice of rate adjustment is 12 months or more after the date of the Decision of the Governors approving rate changes associated with the transitional filing; and
- (b) The annual limitation as calculated in § 3010.22 is applicable if the notice of rate adjustment is 12 months or more after the date of the Decision of the Governors approving rate changes associated with the transitional filing. In such circumstances, the date of the Decision of the Governors approving rate changes associated with the transitional filing is the most recent previous notice of rate adjustment.

Subpart D—Rules for Rate Adjustments for Negotiated Service Agreements (Type 2 Rate Adjustments)

§ 3010.40 Negotiated service agreements.

(a) In administering this subpart, it shall be the objective of the Commission to allow implementation of negotiated service agreements that satisfy the statutory requirements of 39 U.S.C. 3622(c)(10). Negotiated service agreements must either:

- (1) Improve the net financial position of the Postal Service (39 U.S.C. 3622(c)(10)(A)(i)); or
 - (2) Enhance the performance of operational functions (39 U.S.C. 3622(c)(10)(A)(ii)).
- (b) Negotiated service agreements may not cause unreasonable harm to the marketplace (39 U.S.C. 3622(c)(10)(B)).
- (c) Negotiated service agreements must be available on public and reasonable terms to similarly situated mailers.

§ 3010.41 Procedures.

The Postal Service, in every instance in which it determines to exercise its statutory authority to make a Type 2 rate adjustment for a market dominant postal product shall provide public notice in a manner reasonably designed to inform the mailing community and the general public that it intends to change rates not later than 45 days prior to the intended implementation date; and transmit a notice of agreement to the Commission no later than 45 days prior to the intended implementation date.

§ 3010.42 Contents of notice of agreement in support of a negotiated service agreement.

- (a) Whenever the Postal Service proposes to establish or change rates or fees and/or the Mail Classification Schedule based on a negotiated service agreement, the Postal Service shall file with the Commission a notice of agreement that shall include at a minimum:
 - (1) A copy of the negotiated service agreement;
 - (2) The planned effective date(s) of the proposed rates;

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(3) A representation or evidence that public notice of the planned changes has been issued or will be issued at least 45 days before the effective date(s) for the proposed new rates; and

(4) The identity of a responsible Postal Service official who will be available to provide prompt responses to requests for clarification from the Commission.

(b) A statement identifying all parties to the agreement and a description clearly explaining the operative components of the agreement.

(c) Details regarding the expected improvements in the net financial position or operations of the Postal Service. The projection of change in net financial position as a result of the agreement shall include for each year of the agreement:

(1) The estimated mailer-specific costs, volumes, and revenues of the Postal Service absent the implementation of the negotiated service agreement;

(2) The estimated mailer-specific costs, volumes, and revenues of the Postal Service which result from implementation of the negotiated service agreement;

(3) An analysis of the effects of the negotiated service agreement on the contribution to institutional costs from mailers not party to the agreement; and

(4) If mailer-specific costs are not available, the source and derivation of the costs that are used shall be provided, together with a discussion of the currency and reliability of those costs and their suitability as a proxy for the mailer-specific costs.

(d) An identification of each component of the agreement expected to enhance the performance of mail preparation, processing, transportation or other functions in each year of the agreement, and a discussion of the nature and expected impact of each such enhancement.

(e) Details regarding any and all actions (performed or to be performed) to assure that the agreement will not result in unreasonable harm to the marketplace.

(f) Such other information as the Postal Service believes will assist the Commission to issue a timely deter-

mination of whether the requested changes are consistent with applicable statutory policies.

§ 3010.43 Data collection plan.

The Postal Service shall include with any notice of agreement a detailed plan for providing data or information on actual experience under the agreement sufficient to allow evaluation of whether the negotiated service agreement operates in compliance with 39 U.S.C. 3622(c)(10). The data report is due 60 days after each anniversary date of implementation and shall include, at a minimum, the following information for each 12-month period the agreement has been in effect:

(a) The change in net financial position as a result of the agreement. This calculation shall include for each year of the agreement:

(1) The actual mailer-specific costs, volumes, and revenues of the Postal Service;

(2) An analysis of the effects of the negotiated service agreement on the net overall contribution to the institutional costs of the Postal Service; and

(3) If mailer-specific costs are not available, the source and derivation of the costs that are used shall be provided, including a discussion of the currency and reliability of those costs, and their suitability as a proxy for the mailer-specific costs.

(b) A discussion of the changes in operations of the Postal Service that have resulted from the agreement. This shall include, for each year of the agreement, identification of each component of the agreement known to enhance the performance of mail preparation, processing, transportation, or other functions in each year of the agreement.

(c) An analysis of the impact of the negotiated service agreement on the marketplace, including a discussion of any and all actions taken to protect the marketplace from unreasonable harm.

§ 3010.44 Proceedings for Type 2 rate adjustments

(a) The Commission will establish a docket for each Type 2 rate adjustment filing, promptly publish notice of the filing in the FEDERAL REGISTER, and